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AFFIRMATIVE DEFENSES (NEGLIGENCE) – ATTACHMENT 6

- ☐ a. **Running of the Statute of Limitations.** The complaint was filed after the time period allowed in Code of Civil Procedure sections 340, *et seq.*
- ☐ b. **Failure to State a Cause of Action.** The complaint does not contain enough facts to state a cause of action against this defendant.
- ☐ c. **Plaintiff's Comparative Fault.** Plaintiff(s) or the person insured by plaintiff was at fault in how he/she/it conducted his/her/its affairs relative to the incident described in plaintiff's complaint. Such fault caused or contributed to the damages complained of in this case.
- ☐ d. **Failure to Mitigate Damages.** Plaintiff(s) or the person insured by plaintiff failed to take reasonable steps to minimize or prevent the damages plaintiff claims to have suffered.
- ☐ e. **Assumption of the Risk.** Plaintiff(s) or the person insured by plaintiff knew about the risk, and voluntarily undertook the risk that led to the accident or injuries complained of in this case.
- ☐ f. **Consent by Plaintiff.** Plaintiff(s) or the person insured by plaintiff agreed to, and participated in, those actions which plaintiff(s) claim to have caused injury or damage. Since such participation and consent were given knowingly and voluntarily, plaintiff's claims are invalid.
- ☐ g. **Comparative Fault of Third Parties.** People or entities other than this defendant caused or contributed to the damages plaintiff(s) claim to have suffered. Therefore any award made in favor of the plaintiff in this case must be reduced by an amount equal to the percentage of the fault of others in causing or contributing to the damages as alleged in the complaint.
- ☐ h. **Apportionment of Fault.** Defendants other than this defendant caused or contributed to the damages plaintiff(s) claim to have suffered. Therefore any award made in favor of the plaintiff(s) in this case must be divided between the defendants so that each pays only his, her or its fair share in relationship to his, her or its amount of fault.

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- ☐ i. **Claim is Barred By Law.** This defendant believes, based on reliable information, that current law prohibits plaintiff's claims against this defendant.
- ☐ j. **Laches.** Plaintiff(s) or the person insured by plaintiff waited too long to file this law suit, making it difficult or impossible for defendant to find witnesses or evidence to defend the case.
- ☐ k. **Waiver.** Plaintiff(s) or the person insured by plaintiff either told, or led this defendant to believe, that plaintiff would not sue this defendant.
- ☐ l. **Estoppel.** Plaintiff(s) or the person insured by plaintiff acted in such a way as to cause this defendant to believe that plaintiff would not file suit, and defendant relied on those actions or representations.
- ☐ m. **Act of God.** The damages plaintiff(s) or the person insured by plaintiff claims to have suffered were caused by a natural occurrence, such as a storm.
- ☐ o. **Failure to Exhaust Administrative Remedies.** Plaintiff(s) or the person insured by plaintiff failed to file and pursue a claim with the responsible government agency before filing this lawsuit.
- ☐ p. **Intervening or Supervening Cause.** The damages the plaintiff(s) or the person insured by plaintiff claims to have suffered were caused or made worse by an event that occurred after the accident described in the complaint.
- ☐ q. **Superseding Cause.** The damages the plaintiff(s) or the person insured by plaintiff claims to have suffered were almost entirely caused by an event that occurred after the accident described in the complaint, thus this defendant is not responsible for plaintiff's claimed damages.
- ☐ r. Other: _____

